



U.S. DISTRICT COURT  
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U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

April 26, 2024

**By ECF**

Hon. Nelson S. Román  
The Hon. Charles L. Brieant Jr.  
Federal Building and United States Courthouse  
300 Quarropas St.  
White Plains, NY 10601-4150

**Re: *Cohen v. United States*, et al., No. 23 Civ. 8099 (NSR)**

Dear Judge Román:

This Office represents warden J.L. Jamison (the “Respondent”) in the above referenced petition for habeas corpus brought by *pro se* petitioner Jeffrey Cohen (“Petitioner”), an inmate at FCI Otisville (“Otisville”), pursuant to 28 U.S.C. § 2241 (the “Petition”).<sup>1</sup> See ECF No. 8-1.

In the Order dated February 12, 2024 (the “Order”), the Court directed this Office to respond to the Petition within sixty days of the order, that is, by April 12, 2024. *See* ECF No. 11. On April 9, 2024, our Office informed the Court that it has been coordinating with the staff at FCI Otisville to ascertain what medical care has been provided to Petitioner since he filed the Petition and what future care has been scheduled, and requested a two-week extension of time, to April 26, 2024, to respond to the Petition; the Court granted the request on April 10, 2024. *See* ECF Nos. 17–18.

Since that time, the staff at FCI Otisville has either performed or scheduled medical services, upon completion of which we believe Petitioner’s concerns will be fully resolved.<sup>2</sup> As detailed in the attached declaration of Kevin Vincenzes, the Assistant Health Services Administrator at Otisville (“Vincenzes Decl.”):

1. Petitioner has been scheduled for a neurosurgery consultation on May 1, 2024.

<sup>1</sup> Plaintiff also brings negligence claims for damages against the United States pursuant to the Federal Tort Claims Act. *See* Amended Complaint, ECF No. 8. On April 19, 2024, the Court instructed Petitioner to serve the United States pursuant to Rule 4(i). ECF No. 20. In a letter dated April 13, 2024, Petitioner requested our Office waive service. ECF No. 21. While we cannot agree to do that, our Office will agree to accept service of the Amended Complaint by email or mail on behalf of the United States. Accordingly, the United States has not been properly served yet and therefore this Office is at this point only appearing in this action with respect to the Petition.

<sup>2</sup> As a reminder, Petitioner is seeking (1) diagnostic tests and, if indicated, surgery to resolve his back pain, (2) a sleep apnea study to address his sleep apnea, and (3) weight loss medication Wegovy. Petition at 3–4.

Vincenzen Decl. ¶ 7.

2. On April 10, 2024, Petitioner was screened again for a sleep study and continues to meet the criteria for the study. *Id.* ¶ 9. The sleep study will be scheduled in the next few weeks after Otisville sets up a new contract provider for sleep studies. *Id.*
3. Petitioner was recently prescribed medication Ozempic, which has the same active ingredient as Wegovy. *Id.* ¶ 8.

We believe that the completion of this plan will render the Petition moot. We thus respectfully request that the Court hold the Petition in abeyance for a month, until May 26, 2024, at which time Respondent will likely move to dismiss the Petition as moot.<sup>3</sup>

Thank you for your attention to this matter.

Respectfully,

DAMIAN WILLIAMS  
United States Attorney for the  
Southern District of New York

By: /s/ Alexander Kristofcak  
ALEXANDER KRISTOFCAK  
Assistant United States Attorney  
86 Chamber Street, 3rd Floor  
New York, NY 10007  
Tel.: (212) 637-2768  
Email: Alexander.Kristofcak@usdoj.gov

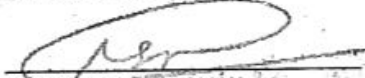
cc: Jeffrey Cohen  
Reg. No. 58021-037  
FCI Otisville  
P.O. Box 1000  
Otisville, NY 10963  
*PRO SE*  
(By U.S. Mail)

**Respondent's request is GRANTED. The deadline for Respondent to respond to the Petition is May 27, 2024. The Clerk of the Court is directed to mail a copy of this memorandum endorsement to pro se Plaintiff-Petitioner at the address listed on ECF and to show service on the docket.**

**The Clerk of the Court is further directed to terminate the motion at ECF No. 22.**

**Dated: May 2, 2024  
White Plains, NY**

SO ORDERED:

  
HON. NELSON S. ROMAN  
UNITED STATES DISTRICT JUDGE

<sup>3</sup> To avoid any adverse inference, Respondent does not believe that relief pursuant to Section 2241 is warranted because it has in fact provided treatment for Petitioner's medical conditions and Petitioner cannot show that Respondent was deliberately indifferent to his medical needs. *See Chance v. Armstrong*, 143 F.3d 698, 703 (2d Cir. 1998) (citing *Dean v. Coughlin*, 804 F.2d 207, 215 (2d Cir. 1986) ("It is well-established that mere disagreement over the proper treatment does not create a constitutional claim.")). Nonetheless, because Petitioner is or will be receiving the care he demanded in his Petition, we concluded that an opposition to the Petition would not be fruitful at this time, and thus seek to conserve judicial and party resources.